

1 Shikeb Saddozai - CDCR #AY1590  
2 California Correctional Institution(CCI)  
P.O. Box 1905  
Tehachapi, C.A. 93581  
3 In Pro Per  
4  
5

FILED  
JUN -5 2019  
SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA

6 UNITED STATES DISTRICT COURT  
7 NORTHERN DISTRICT OF CALIFORNIA

8 SHIKEB SADDOZAI,

Case No. 18-cv-05558-BLF

9 Petitioner,

10 v.

11  
12 N. MALIKIAN, et al.,  
13  
14 Defendants.

PETITIONERS APPLICATION  
REQUESTING FILING FEES  
UNDER IN FORMA PAUPERIS  
BE WAIVED AND OR MODIFIED  
WITH POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION

15  
16 I, Shikeb Saddozai, am the petitioner in the above entitled case.  
Please take notice that petitioner submits in forma pauperis,  
requesting this court to proceed in the above entitled case,  
without petitioner being required to prepay fees or costs or  
give security therefore, I state because of my poverty, I am  
unable to pay the cost of said proceeding or to give security  
therefore, and that I believe I am entitled to redress.

17  
18 I declare the statements which I have made below are true.  
19  
20

21 1. I am not presently employed.

22 2. In the past 12 months, family, and friends have sent me funds  
as gifts, and donations, in the amount of \$900.00, for personal  
hygiene, stationary supplies, food, and medical needs.

23 3. I have no source of income, and do not own cash, bank accounts,  
real estate, stocks, bonds, notes, automobiles, or other valuable  
property.

24  
25  
26  
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1                   I. FACTS  
2

- 3       4. Petitioner is unable to afford filing fee, and has attached  
4       hereto in support of declaration; Inmate Trust Account  
5       statement, with current balance of \$0.00, that the courts have  
6       ignored financial status of petitioner, and ability to pay.  
7       (SEE: Exhibit-A.)  
8  
9       5. Petitioner has brought civil actions without prepayment of  
10      fees, and allowed to proceed in forma pauperis, and is further  
11      proof, and demonstrates that petitioner is indigent, and can  
12      not afford fees in the matter.  
13      (SEE: Exhibit-A.)  
14  
15      6. Petitioner may never receive a job, and or with a pay  
16      number during his entire term in prison, and petitioners  
17      ability to pay, while in prison must be determined, upon his  
18      ability to work, as well as medical conditions, and needs  
19      which prevent meaningful job assignments, petitioners  
20      education level, which preclude petitioner from working a  
21      meaningful job, and more, none of these legitimate factors  
22      have been taken into consideration in the instant case.  
23  
24      7. Petitioner has used available funds, sent as gifts, and  
25      donations, from family, and friends, to advance legal litiga-  
26      tions, needed for the purposes of initiating, and maintaining  
27      court actions, including but not limited to: habeas corpus,  
28      action, 42 U.S.C. § 1983 action, stationary supplies, postage,  
29      photo copying services, and legal reference materials.  
30  
31      8. Petitioner has restitution fines imposed by the courts, and  
32      only able to pay any of the fines, because family, and friends  
33      send funds as gifts, and donations, once in while, for  
34      stationary supplies, personal hygiene, food, and medical needs,  
35      and which more than half is taken before given to petitioner  
36      to pay court imposed restitution, along with unjust prison  
37      administration fees added on.  
38  
39      9. The court have collected filing fees exceeding the amount  
40      by statute for commencement of a civil action beyond the  
41      20 percent of the greater of average month deposits to  
42      prisoners account or average month balance for a 6 month  
43      period, immediately proceeding the filing of the complaint.  
44      see attached: Inmate Trust Account, Exhibit-A

1  
2                   II. LEGAL CLAIMS  
3

- 4         10. Pursuant to 28 U.S.C. § 1915.(b)(4), in no event shall a  
5                   prisoner be prohibited from bringing a civil action or  
6                   appealing a civil or criminal judgment for the reason that  
7                   the prisoner has no assets, and no means by which to pay the  
8                   initial partial filing fee.  
9                   (SEE: Taylor v. Delatoor, 281 F.3d 844, 850-51 (9th Cir 2002))  
10         11. It would be inconsistent of the courts to furnish the same  
11                  to a poor person in a civil case involving money only, and  
12                  to deny it in a criminal proceeding where life, and liberty  
13                  are in jeopardy.  
14         11. A petitioner who can not pay the initial fee must be allowed  
15                  to proceed with his case, and not merely granted more time  
16                  to pay. The courts have discretion to assess or refrain  
17                  from assessing cost; SEE: Feliciano v. Selby, 205 F.3d 568  
18                  572 (2d Cir. 2000), and in exercising its discretion, the  
19                  court must consider factors that will unduly delay or  
20                  prejudice the adjudication of petitioners rights.  
21         The courts in determining the petitioners ability to pay  
22                  fee, and in giving said discretion ability to pay fees, the  
23                  same and or similar standard exist in considering each  
24                  major factors, such as court imposed restitutions, medical  
25                  condition needs, lack of employment or job assignments, none  
26                  of these legitimate factors have been taken into considera-  
27                  tion, in the instant case, resulting in the " anomaly of  
                        restitution fines costing more money than petitioner can  
                        actually generate " and of which petitioner continues to  
                        suffer from.  
28         12. There is no bad faith on petitioners part, upon providing  
29                  court true facts demonstrated in prisoners Inmate Trust  
30                  Account, where record lacks evidence of petitioners ability  
31                  to pay, and that affiant is sufficiently poor, qualifies for  
32                  In forma pauperis status.  
33                  (SEE: Mathew v. Gaither, 902 F.2d 877, 881 (11th Cir. 1990).)  
34         13. The filing fee would create a hardship, while in state pri-  
35                  son , needed for plaintiffs litigation(s), postage, legal  
36                  copies, stationary, that had not been considered, as to the  
37                  minimum filing fee, especially amounts that exceed the  
38                  minimum, as additional punishment in the matter, imposed by  
39                  the courts. see Rutledge v. Romero, 1999 WL 412778, \*1-2  
40                  (N.D. Ill. June 3, 1999)

1       14. In Redmond v. Gill, the District Court abused its discretion  
2       in dismissing a case when plaintiff failed to return an  
3       authorization form for payment of fees within 20 days;  
4       requiring plaintiff be given more time. SEE: 352 F.3d 1315,  
5       1321 (3rd Cir.2003); Wilson v. Sargent,313 F.3d 1315,1321  
6       (11th Cir.2002).)

7       Constitutional guarantees of due process, and equal protection  
8       both call for procedures in criminal offenses which allow  
9       no invidious discrimination between persons in different  
10      groups of persons; quoting: Griffin v. Illinois, and as such  
11      a state may not inflict punishment on indigent criminal  
12      defendant/petitioner, solely on the basis of their poverty.

13      15. On January 8th, 2019, Court of Appeals for the second  
14      appellate court District State of California ruled using  
15      the criminal process to collect fines, and fees is unconstitutional;  
16      SEE: People v. Duenas,30 Cal.App.5th 1157 (2019).)

17      Petitioner proceeds in this motion as an indigent person,  
18      because financial information attached, indicate no assets;  
19      SEE: U.S. v. Beckett,208 F.3d 140, 148-149, no specific  
20      finding were made regarding petitioners ability to pay;  
21      SEE: U.S. v. Jaroszenko,92 F.3d 485,492, fees determined by  
22      the courts are without consideration of economic circumstances  
23      of petitioner, or any third party compensation  
24      recieved in determining payment, reveals it was meant to be  
25      punitive;SEE: People v. Hanson,23 Cal.4th 355 (2000)..)

26      16. In the instant case the court imposed a filing fee of \$350  
27      based on assumption that plaintiff can pay the filing fee  
28      out of his earnings, while in prison, which is more than  
29      prisoners assets, and income. see Tucker v. Branker,142 F.3d  
30      1294,1298(D.C. Cir 1998).)

31      17. The filing fees are to excessive to petitioner, and there  
32      are compelling, and extraordinary reasons, the court may  
33      waive imposition of the filing fee, allowing petitioner to  
34      proceed as indigent.see Henderson v. Norris,129 F.3d 481,  
35      484(8th Cir 1997);Feliciano v. Selsky,205 F.3d 568,572  
36      (2d Cir 2000).)

CONCLUSION

IT IS RESPECTFULLY REQUESTED THAT THIS PETITION BE GRANTED BASED ON ALL THE ABOVE GROUNDS AND THAT RELIEF FROM THE PREVIOUS FILING FEE IMPOSED BY THE DISTRICT COURT OF \$350 BE MODIFIED AND OR REDUCED TO THE SIMPLEST AND LEAST COSTLY SOLUTION IN WHICH THE COURT HAS THE POWER TO REDUCE OR A FULL WAIVER BE IMPOSED BY THE COURT IN THE INTEREST OF JUSTICE.

Respectfully Submitted,

May 29th , 2019

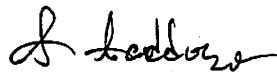


Petitioner In Forma ProPria

VERIFICATION

I am the petitioner in the above entitled cause of action, I have read the statements herein, and declare under penalty of perjury that the above information are true and believe correct to the best of my knowledge. Dated this 26th, day of April, year of 2019, in the city of Tehachapi, county of Kern, in the state of California.

May 29th , 2019



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EXHIBIT - A

EXHIBIT

A

EXHIBIT A

Date\Time: 4/30/2019 10:02:27 AM

CDCR

Verified: \_\_\_\_\_

Institution: CCI

**Inmate Statement Report**

CDCR#	Inmate/Group Name	Institution	Unit	Cell/Bed
AY1590	SADDOZAI, SHIKEB	CCI	C 001 2	243001

Current Available Balance: \$0.00

**Transaction List**

Transaction Date	Institution	Transaction Type	Source Doc#	Receipt#/Check#	Amount	Account Balance
10/30/2018	CCI	BEGINNING BALANCE				\$97.80
11/01/2018	CCI	LEGAL COPY	11/1/18LCS10/25/18		(\$1.10)	\$96.70
11/01/2018	CCI	LEGAL COPY	11/1/18LCS10/30/18		(\$2.70)	\$94.00
11/01/2018	CCI	LEGAL COPY	11/1/18LCS10/24/18		(\$0.40)	\$93.60
11/02/2018	CCI	SALES	40		(\$93.60)	\$0.00
11/06/2018	CCI	JPAY	0000000092765153		\$300.00	\$300.00
11/06/2018	CCI	RESTITUTION FINE PAYMENT	0000000092765153		(\$150.00)	\$150.00
11/06/2018	CCI	ADMINISTRATIVE FEE	0000000092765153		(\$15.00)	\$135.00
11/07/2018	CCI	SALES	50		(\$88.30)	\$46.70
11/08/2018	SQ	RESTITUTION FINE PAYMENT	9552911806		(\$150.00)	\$840.00
11/08/2018	SQ	ADMINISTRATIVE FEE	9552911806		(\$15.00)	\$825.00
11/08/2018	CCI	SALES	23		(\$31.10)	\$15.60
11/08/2018	CCI	SALES	29		(\$7.00)	\$8.60
11/08/2018	SQ	TRACS TRANSFER OUT	TX11082018		(\$825.00)	\$0.00
11/08/2018	CCI	TRACS TRANSFER IN	TX11082018		\$825.00	\$833.60
11/16/2018	CCI	LEGAL COPY	11/16/18LCS11/15/18		(\$5.00)	\$828.60
11/16/2018	CCI	INMATE DEPOSIT	MRL# 149CC1595412897	11224	\$500.00	\$1,328.60
11/21/2018	CCI	LEGAL COPY	11/21/18LCS11/15/18		(\$1.30)	\$1,327.30
11/24/2018	CCI	SALES	19		(\$191.55)	\$1,135.75
11/30/2018	CCI	LEGAL COPY	11/30/18LCS11/27/18		(\$0.10)	\$1,135.65
12/03/2018	CCI	HEALTH RECORD COPIES	12/3/18HRC11/29/18		(\$0.30)	\$1,135.35
12/05/2018	CCI	SALES	69		(\$28.40)	\$1,106.95
12/20/2018	CCI	SALES	47		(\$219.95)	\$887.00
01/01/2019	CCI	PLRA	5:18-CV-04047-BLF	705347	(\$100.00)	\$787.00
01/01/2019	CCI	PLRA	5:18-CV-03972-BLF	705347	(\$100.00)	\$687.00
01/02/2019	CCI	LEGAL MAIL	11/2/19LM12/27/18		(\$13.35)	\$673.65
01/07/2019	CCI	PLRA	5:18-CV-04492-BLF	705347	(\$30.00)	\$643.65
01/09/2019	CCI	REGULAR MAIL	01/09/19REGMAIL01/04		(\$0.71)	\$642.94
01/14/2019	CCI	LEGAL COPY	01/14/19LCS01/14		(\$0.70)	\$642.24
01/17/2019	CCI	LEGAL COPY	01/17/19LM01/16/19		(\$2.60)	\$639.64

Date\Time: 4/30/2019 10:02:27 AM

CDCR

Verified:

Institution: CCI

## Inmate Statement Report

Transaction Date	Institution	Transaction Type	Source Doc#	Receipt#/Check#	Amount	Account Balance
01/22/2019	CCI	MEDICAL COPAY	10/25/18MCP10/23/18		\$5.00	\$644.64
01/22/2019	CCI	SALES	37		(\$220.00)	\$424.64
01/25/2019	CCI	LEGAL COPY	01/25/19LCS0124/19		(\$2.50)	\$422.14
01/29/2019	CCI	PLRA	5:18-CV-05558-BLF	705449	(\$43.15)	\$378.99
01/31/2019	CCI	LEGAL COPY	01/31/19 LCS01/25/19		(\$0.80)	\$378.19
01/31/2019	CCI	LEGAL COPY	01/31/19 LCS01/28/19		(\$1.70)	\$376.49
02/11/2019	CCI	LEGAL COPY	02/11/19LCS02/07/19		(\$4.80)	\$371.69
02/19/2019	CCI	SALES	55		(\$121.95)	\$249.74
02/23/2019	CCI	SALES	45		(\$48.50)	\$201.24
03/05/2019	CCI	LEGAL MAIL	03/05/19LM02/21/19		(\$7.85)	\$193.39
03/05/2019	CCI	LEGAL MAIL	03/05/19LM02/28/19		(\$2.50)	\$190.89
03/08/2019	CCI	LEGAL MAIL	3/8/19LM3/5/19		(\$7.35)	\$183.54
03/13/2019	CCI	SALES	30		(\$49.55)	\$133.99
03/14/2019	CCI	LEGAL MAIL	03/11/19LM03/11/19		(\$2.50)	\$131.49
03/20/2019	CCI	SALES	9		(\$89.25)	\$42.24
03/25/2019	CCI	LEGAL MAIL	03/25/19 LM 03/20/19		(\$8.30)	\$33.94
03/25/2019	CCI	LEGAL MAIL	03/25/19 LM 03/20/19		(\$7.35)	\$26.59
04/02/2019	CCI	LEGAL COPY	04/02/19LCS03/25/19		(\$1.00)	\$25.59
04/02/2019	CCI	LEGAL MAIL	04/02/19LM03/28/19		(\$2.05)	\$23.54
04/02/2019	CCI	LEGAL MAIL	04/02/19LM03/28/19		(\$2.05)	\$21.49
04/02/2019	CCI	LEGAL MAIL	04/02/19LM03/28/19		(\$2.05)	\$19.44
04/02/2019	CCI	LEGAL MAIL	04/02/19LM003/27/19		(\$2.05)	\$17.39
04/04/2019	CCI	LEGAL MAIL	04/04/19 LM 03/29/19		(\$2.05)	\$15.34
04/11/2019	CCI	JPAY	0000000099516095		\$200.00	\$215.34
04/15/2019	CCI	LEGAL MAIL	04/15/19LM04/11/2019		(\$2.20)	\$213.14
04/17/2019	CCI	SALES	7		(\$49.40)	\$163.74
04/17/2019	CCI	LEGAL MAIL	04/17/19LM04/11/19		(\$2.05)	\$161.69
04/17/2019	CCI	LEGAL MAIL	04/17/19LM04/11/19		(\$1.69)	\$160.00
04/18/2019	CCI	JPAY	0000000099793432		\$220.00	\$380.00
04/18/2019	CCI	LEGAL MAIL	04/17/19LM04/11/19		(\$0.36)	\$379.64
04/19/2019	CCI	SALES	17		(\$43.60)	\$336.04
04/19/2019	CCI	LEGAL COPY	4/19/19LCS4/11/19		(\$0.04)	\$336.00

## Encumbrance List

Encumbrance Type	Transaction Date	Amount
Other Encumbrance	04/11/2019	\$40.00
Other Encumbrance	04/11/2019	\$40.00

**Inmate Statement Report**

Encumbrance Type	Transaction Date	Amount
Other Encumbrance	04/11/2019	\$40.00
Other Encumbrance	04/11/2019	\$40.00
Other Encumbrance	04/18/2019	\$44.00

**Obligation List**

Obligation Type	Court Case#	Original Owed Balance	Sum of Tx for Date Range for Oblig	Current Balance
PLRA	5:18-CV-03972-BLF	\$350.00	(\$100.00)	\$166.00
PLRA	5:18-CV-04047-BLF	\$350.00	(\$100.00)	\$166.00
PLRA	5:18-CV-04492-BLF	\$350.00	(\$30.00)	\$236.00
PLRA	5:18-CV-05558-BLF	\$350.00	(\$43.15)	\$222.85
LEGAL COPY	4/19/19LCS4/11/19	\$2.20	(\$0.04)	\$2.16
LEGAL COPY	04/25/19LCS04/22/19	\$8.90	\$0.00	\$8.90
LEGAL COPY	04/25/19LCS04/23/19	\$2.10	\$0.00	\$2.10
LEGAL COPY	04/25/19LCS04/23/19	\$0.40	\$0.00	\$0.40
LEGAL COPY	04/25/19LCS04/23/19	\$4.50	\$0.00	\$4.50
<b>COPY CHARGES</b>	<b>4/30/19STMNTCOPIES</b>	<b>\$0.30</b>	<b>\$0.00</b>	<b>\$0.30</b>

**Restitution List**

Restitution	Court Case#	Status	Original Owed Balance	Interest Accrued	Sum of Tx for Date Range for Oblig	Current Balance
RESTITUTION FINE	SC078812	Fulfilled	\$300.00	\$0.00	\$0.00	\$0.00
RESTITUTION FINE	16NF001414	Fulfilled	\$300.00	\$0.00	(\$300.00)	\$0.00